IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25038 of 2004

Between:

1 J.Rama Krishna S/o. J. Lakshmaiah, Hindu
R/o. HIG-5, Phase - III, Vatluru, Eluru, West Godavari District.
2 T. Meri Kumari W/o. U.Sreenivasa Rao, Hindu
R/o. HIG-5, Phase - III, Vatluru, Eluru, West Godavari District.
3 Shaik Azger Ali S/o. Alli Saheb, Muslim
R/o. HIG-2, Phase - III, Vatluru, Eluru, West Godavari District.
4 A.Mallikhajuna Rao S/o. Chandraiah, Hindu
R/o. HIG-4, Phase - III, Vatluru, Eluru, West Godavari District.
5 D.Israil S/o.Sambaiah
R/o. HIG-6, Phase - III, Vatluru, Eluru, West Godavari District.
6 B.Achutha Rao S/o. Rama Krishna, Hindu
R/o. HIG-7, Phase - III, Vatluru, Eluru, West Godavari District.
7 V.L.Narasamba W/o. Sri Ram, Hindu
R/o. HIG-8, Phase - III, Vatluru, Eluru, West Godavari District.
8 N.Sridhar S/o. Subba Rao, Hindu
R/o. HIG-9, Phase - III, Vatluru, Eluru, West Godavari District.
9 G.Anantaha Laxmi W/o. Jawaharlal Nehru, Hindu
R/o. HIG-10, Phase - III, Vatluru, Eluru, West Godavari District.
10 P.Krishna Veni W/o. Sreenivasa Rao, Hindu
R/o. HIG-II, Phase-III Vatluru, Eluru, West Godavari District.
11 N.Sridhar W/o. Subba Rao
R/o. HIG-13, Phase - III, Vatluru, Eluru, West Godavari District.
12 PLN Sarma S/o. Rama Rao, Hindu
R/o. HIG-14, Phase - III, Vatluru, Eluru, West Godavari District.
13 M.S.A.Sivahji S/o. Seetaramaian, Hindu
R/o. HIG-15, Phase - III, Vatluru, Eluru, West Godavari District.
14 K.V.S.S.S.M Krihana Raju S/o. Janakiram Raju, Hindu
R/o. HIG-26, Phase - III, Vatluru, Eluru, West Godavari District.
15 Chalamalasetty Swarjyalakshmi W/o. Satyanarayana, Hindu
R/o. HIG-1, Phase - III, Vatluru, Eluru, West Godavari District.
16 G.S.P.Babu S/o. Assirvad, Hindu
R/o. HIG-2, Phase - III, Vatluru, Eluru, West Godavari District.

17 M.V.S.Rama Rao S/o. Subba Rao, Hindu
R/o. HIG-4, Phase - III, Vatluru, Eluru, West Godavari District.
18 Trinath Raj S/o. Achutarama Raju, Hindu
R/o. HIG-5, Phase - III, Vatluru, Eluru, West Godavari District.
19 Jalagam Nagraju Dora S/o. Venkanna Dora, Hindu
R/o. HIG-7, Phase - III, Vatluru, Eluru, West Godavari District.
20 G.Suneetha Devi W/o. Satyanarayan, Hindu
R/o. HIG-8, Phase - III, Vatluru, Eluru, West Godavari District.

..... PETITIONER(S)

AND

1 The Vice Chairman & Housing Commissioner of A.P.H.B., Gruhakalpa Complex, Hyderabad.
2 The Executive Engineer, (Hg), A.P. Housing Board, Tadepalligudem, West Godavari District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings Lr.No.939/VAT-ph.111/DB/EE-TPG/2004 dt. 24-11-2004 issued by the 2nd respondent as illegal, arbitrary and in violation of principles of Natural Justice and consequently direct the Respondents to register the houses in favour of the petitioners as per the notification and agreement made between the petitioners and respondents and pass such other order or orders.

Counsel for the Petitioners:MR.K.VISWANATHAM

Counsel for the Respondent No.: MR.J.PRABHAKAR

The Court, at the stage of admission, made the following :

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 25038 of 2004

O r d e r:

Respondent No.1, namely A.P. Housing Board (for short 'the Board') having proposed to take up house schemes in 14 towns of Andhra Pradesh, issued Notification on 5-8-2001 calling upon applicants to register their names for HIG and MIG houses by paying requisite fee to participate in the draw. The petitioners state that in the Notification, the cost of each unit of HIG and MIG was fixed at Rs. 4.50 lakhs and Rs. 3.50 lakhs respectively. The petitioners state that they having been selected in the draw for HIG and MIG houses in Phase III, Vatluru, Eluru, West Godavari District, were issued intimation letters dated 4-10-2002 indicating the cost of each unit of HIG and MIG at Rs.4.50 lakhs and Rs. 3.50 lakhs respectively and the mode of payment. The units having been constructed, the petitioners state that they were even handed over possession thereof on 1-8-2003. While so, the petitioners state that the Board issued individual letters dated 27-3-2004 informing the petitioners that the final cost of each unit of HIG and MIG has been fixed at Rs.5,24,264/- and Rs.4,17,068/- respectively. It is these individual letters, issued to them by respondent No.1, the petitioners seek to impugn in this writ petition.

The learned counsel for the petitioners submits that in the Notification issued by the Board, and the intimation letters dated
4-10-2002 issued to the petitioners, the cost of each unit of HIG and MIG was fixed at Rs.4.50 lakhs and Rs.3.50 lakhs respectively, and therefore, it was not open for the Board to unilaterally fix the final cost of each unit of HIG and MIG at Rs.5,24,264/- and Rs.4,17,068/- respectively, which is illegal and arbitrary, and particularly when the assessment made by the Civil Engineer engaged by them informed that the cost of each of the unit of HIG and MIG would not cost more than Rs.4,12,940/- and Rs.3,17,480/- respectively.

I am unable to agree with this submission of the petitioners.
A reading of the Notification issued by the Board would disclose that the Board has fixed the cost of each of the unit of HIG and MIG tentatively at Rs.4.50 lakhs and 3.50 lakhs, thereby indicating that the cost fixed by the Board is provisional and is subject to change, and further, even though the petitioners contend that even in the intimation letters issued to them, they were informed that the cost of each of the unit of HIG and MIG is Rs.4.50 lakhs and Rs.3.50 lakhs, but there is an escalatory clause in the said intimation letter in clause 7, wherein it is *inter alia* stated that "**the cost of the house is tentative, and difference cost of the house should be paid by the allottee after final cost is fixed…**". The cost of each of the unit of HIG and MIG fixed by the Board being tentative, and is subject to change, and the difference being liable to be paid by the allottee upon fixing of final cost, no exception can be taken to the action of the Board in issuing intimation letters fixing the final cost of each unit of HIG and MIG at Rs.5,24,264/- and Rs.4,17,068/- respectively, which it cannot be doubted, is worked out by experts in the field having regard to the cost of various materials and manpower that was used in the construction of the units.

In the result, the writ petition is dismissed. This order, however, does not preclude the petitioners from making appropriate representation to the respondent to consider the possibility of reducing the final cost of each unit of HIG and MIG houses fixed by them, and if any such representation is made, the respondent shall uninfluenced by the observations made above, shall consider the representation and pass

appropriate orders. No costs.

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N.V. RAMANA, J.

Date: 20th January, 2005.

KSR

To

1 The Vice Chairman & Housing Commissioner of A.P.H.B., Gruhakalpa Complex, Hyderabad.
2 The Executive Engineer, (Hg), A.P. Housing Board, Tadepalligudem, West Godavari District

3 Two CD copies.